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ABSTRACT

This guide describes how a person with a disability can work and keep federal benefits, such as Social Security. It is useful for transition planners and disabled youth and their families who need to know how to keep benefits during the transition from school to work. The guide explains work incentives and provides an overview of Social Security benefits and steps prior to application for work incentives. Application procedures and recordkeeping are described for three types of work incentives: (1) Social Security Disability Income (SSDI) work incentives--allowable income, trial work period, extended period of eligibility, continuation of Medicare coverage, and Medicare for people with disabilities who work; (2) Supplemental Security Income (SSI) work incentives--earned income exclusion, student earned income exclusion, blind work expenses, Plan to Achieve Self-Support (PASS) Work Incentive, Property Essential to Self-Support, Section 1619(a), and Section 1619(b); and (3) SSI/SSDI work incentives--subsidies, Section 301 continued payment under a vocational rehabilitation plan, and impairment-related work expenses. Other topics include dealing with pitfalls, recordkeeping, reviews, reforms, "welfare," and Veterans' Administration work incentives. Application procedures and recordkeeping are discussed for the following: Internal Revenue Service work incentives: medical care deductions, Credit for the Elderly and Disabled, child and dependent care credit, Americans with Disabilities Act tax credit, and Targeted Jobs Tax Credit. Some sample expense logs are appended. (YLB)

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The ACCESS Guide to Federal Work Incentives

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John R. Woodward

INTRODUCTION: WHAT ARE "WORK INCENTIVES?"

Eight out of every ten able-bodied working-age Americans has a job, but only one out of every ten Americans with disabilities works. For decades, physical and attitudinal barriers in the community and the workplace kept persons with disabilities from seeking and finding jobs, but the Americans with Disabilities Act has begun to remove these barriers. What are the major obstacles keeping people with disabilities out of the workforce now? We believe that the answer most persons with disabilities who are out of the job market could be working if there was more money to spend helping them to prepare for and find work. It costs money to put people with disabilities in jobs. They need adaptive devices, personal care to help them with their activities of daily living, accessible transportation and medical insurance that will accept them without punishing them for being disabled. They also need the same kinds of things that "temporarily able-bodied" persons need to have when they enter the job market, such as training and education, suitable housing and an appropriate wardrobe. If the ADA has opened up the job market for persons with disabilities, we have to ask ourselves next where the money will come from to prepare and equip them for the job market.

Until now, persons with disabilities who wanted to work relied primarily on assistance from state Vocational Rehabilitation agencies. State VR agencies are funded by the Federal Government according to an 80/20 matching funds formula: the Rehabilitation Services Administration of the Federal Government puts up 80% of the costs of maintaining a state VR agency, and the state itself puts up 20%. Additionally, some funds from Federal and state educational and employment-program budgets are also used to help disabled persons get ready for work, insurance com-

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panies spend some money on vocational services and some funds are raised from charitable sources, too. However, if all the money spent directly on helping disabled people to get jobs were added up from all these sources, it would come to less that $2.5 billion a year. There are about 10 million working-age persons with disabilities who are unemployed; if we assume that half of them want to work, there would be a mere $500 per person to spend on helping them prepare for it. Most disabled people need more than $500 worth of help, but where will the money come from? Despite the recent reauthorization of the Rehabilitation Act, we can't expect that Congress will appropriate substantially more money for VR programs, and many states already cannot afford the cost of their matching funds. Will persons with disabilities who could work sit frustrated on endless waiting lists while the golden opportunities opened up by the ADA wither and fade?

Any person with a disability who wants to work should know that the Federal Government makes tens of million of dollars a year in other funding available for persons who want to work though Work Incentive systems. The Federal Work Incentives are specific programs which exist to help you make the transition to full- or part-time employment. There are Work Incentives programs within the Social Security Administration, the Department of Veterans' Affairs, the Internal Revenue Service and programs of the Department of Health and Human Services (such as Aid to Families with Dependent Children). If you receive Federal benefits through any of these programs, the Work Incentives will help you keep part or all of the benefits you depend on for your survival and independence; you can also take tax deductions to cover your costs-of-working. In some cases, Work Incentives will increase the size of the benefits you receive. If you use them properly, the Work Incentives will eliminate many of the financial barriers that are keeping you out of the job market.

The Work Incentives do five things for you: 1) they provide you with the security of knowing that your benefits have not been cut off, in case your new employment should not work out; 2) they provide for your return-to-work expenses; 3) they provide you with enough money to live independently until your salary is high enough to cover your living expenses; 4) they provide permanent subsidies for those who need them, and 5) they allow you to write work-related expenses off your taxes.

The Work Incentives can make you "your own vocational rehab counselor," since they allow you to claim thousands of dollars in benefits that you can use to develop your own employment plan. You can also use the Work Incentives to "shelter" money or property that would make you ineligible for Social Security benefits. In theory, at least, the Work Incentives are designed broadly enough to allow you to bring all your creativity to bear when you solve the problems that are keeping you out of the workplace. The Work Incentive policies even promote self-employment and entrepreneurship.

The philosophy of the Work Incentives is that if you can earn part or all of your living, it is in the best interests of our society to support you, even if you have to continue to receive part or all of your benefits to subsidize your employment. People who use the Work Incentives go from being benefits-recipients to wage-

earners and taxpayers, returning back to the government some or all of what they receive.

Does this all sound too good to be true? Are you thinking, "If such wonderful benefits exist, how come I've never heard of anybody using them, and why are so many people with disabilities still unemployed?" These are good questions! There are several reasons why the Work Incentives system is underused. First of all, the Work Incentives *are* complicated; more complicated, in fact, than they need to be. Second of all, the Social Security Administration, which operates most of the Work Incentive programs, does not do very much to promote them or notify people that they are eligible for Work Incentives. In fact, many employees at Social Security Administration local offices have never been trained to evaluate Work Incentive plans, and they may never even have heard of some of the less frequently-used Work Incentives. (This is very common in SSA offices in small cities and towns.) As a result, Vocational Rehabilitation agencies, Associations for Retarded Citizens, Goodwills, Easter Seals, rehab hospitals, Workers Compensation counselors and even Centers for Independent Living don't have access to reliable information about Work Incentives and don't inform their consumers about them. A consumer who wants to use the Work Incentives needs to find out all about them on his or her own before he or she can file a plan.

When the Center for Independent Living of North Florida published a series of articles on the Work Incentives in our newsletter, **ACCESS**, last year, we received over 750 requests for information from around the country. Clearly, people with disabilities want to work and they want to use the Work Incentives. They just need more information about the Work Incentives so that they can become informed consumers and claim the specific Work Incentives benefits they need.

SOCIAL SECURITY BENEFITS: A QUICK OVERVIEW

There are 14 Work Incentives that people on Social Security can use. These are the most widely used, the most flexible and the most generous Work Incentives available. To understand them, you need to know a little about Social Security first.

Persons with disabilities can receive two kinds of Social Security: Social Security Disability Income and Supplemental Security Income. Some people may be receiving both. Most Social Security Work Incentives apply to one type of Social Security or the other, but three Work Incentives apply to both programs.

Social Security Disability Income (SSDI) is a pension program, based on Federal Insurance Corporation Act taxes you paid the government during your working years. These pension taxes, known as FICA for short, would have been the basis for your retirement benefits if you had worked until retirement age. The size of your SSDI benefits is based on the amount you paid into FICA during the 40 "quarters" (three-month periods, or quarters of a year) of your last ten working years.

SSDI is not "welfare." It is a pension plan based on a "contract" between you and the Federal Government. The Federal Government collects FICA taxes from you with the understanding that you will get these funds back in the form of Social Security benefits when you retire or become unable to work any longer. Since SSDI is a pension rather than a form of

welfare, you are not required to sell any of your property and/or run through your savings before you can receive your SSDI.

Supplemental Security Income (SSI) is an income support paid to people who became disabled before they had a substantial work history. If you are disabled and your total income from all sources is below the Federal Guaranteed Minimum Rate, you will be eligible for SSI. (In December of 1992, the Federal Guaranteed Minimum Rate was $407 per month.) Many people who receive SSI have been disabled since birth or childhood, and have never worked. Part of your SSI benefits are paid for by the state in which you live; therefore, the Federal Government allows states to decide if they wish to extend SSI benefits above the Federal Guaranteed Minimum Rate, and the sizes of SSI payments vary from state to state.

The SSI program places a limit on the value of savings you can possess and property you can own, so a few of the SSI Work Incentives are designed to help you keep savings or property that exceed the usual levels. SSI also has a number of Work Incentives geared toward the needs of people who work in sheltered workshops and other institutional settings.

There are two kinds of property you are always allowed to keep when you receive SSI: your house and a vehicle (usually a car or pickup truck). There are limits, however, to how valuable these pieces of property can be. They vary from state to state. If your house or car exceeds the value limit for the state you live in, you may (probably will) be compelled to sell it and buy a cheaper one. After you have used up the difference between the selling price of your property and the value limit for your state, you are eligible for SSI. This issue sometimes arises when a dependent child inherits a house or vehicle from his or her parents. If the house, for example, is assessed at a value higher than the value limit in the state where the child lives, he or she could be required to sell it, buy a cheaper house and run through whatever part of the proceeds of the sale are left, before he or she can receive SSI again.

If you worked briefly before becoming disabled, you could be receiving both SSDI and SSI. Your SSDI benefits would be based on your FICA payments during the last 40 quarters you worked, while the SSI benefits would bring your monthly income up to the Federal Guaranteed Minimum Rate. If you worked fewer than 40 quarters, your SSDI would be based on those quarters you did work.

Other benefits you might receive, such as Medicare and Medicaid, are tied to your Social Security eligibility, so there are Work Incentives that cover these benefits, too.

BEFORE YOU GET STARTED

The first thing to do before you apply for any Work Incentives, and even before you look for work, is to obtain a copy of the Social Security Administration's ***Red Book On Work Incentives***, also known as "SSA Publication No. 64-030". The ***Red Book***, which is free, is the definitive guide to the Social Security Work Incentives, but it suffers from one major shortcoming: while it lists and explains all the different Work Incentives in great detail, it does not explain the application processes for any of them. (If it did, you wouldn't need this Guide!) You can get a copy of the ***Red Book*** mailed to you from your local Social Security Administration Field Office, or

your SSA Regional Office.

We said above that the Social Security Administration does not always provide people with disabilities with accurate information about SSA programs and benefits, especially the Work Incentives. Several people who read the series of articles on which this **Guide** is based reported to us that they were told by SSA staff that the ***Red Book*** is not for distribution to the public. Needless to say, the ***Red Book*** is for public distribution. If an SSA staff member refuses to send you a ***Red Book*** for any reason, you can contact your Social Security Administration Regional Office and do two things: 1) File a complaint; 2) Demand your ***Red Book***! Most telephone books have toll-free numbers for the Social Security Administration that ring in the Regional Office.

Once you've gone over the ***Red Book*** and determined which Work Incentives you are eligible for, write to your local Social Security Administration office and explain to the staff that you will be going to work soon and applying for certain Work Incentives. (List them.) Ask to meet with the SSA staff member who handles Work Incentives in that office. (Each SSA office has a designated contact person for Work Incentive inquiries, plans and reviews.) Explain to that person what you plan to do and ask for his or her help. Many Work Incentive benefits cannot be applied for after you return to work, so be *sure* to do this when you start your job search.

We are sad to report that there are not enough Social Security Administration employees who are well-trained in the Work Incentives. You must be as knowledgeable as you can be going into the application process, and be willing to appeal your case up the hierarchy if you don't get what you want at first. You have the right to ask for any decision by the SSA to be reconsidered. If you lose on the reconsideration, you may ask for a hearing before the Administrative Law Judge. It is a known fact that the ALJ is more likely to give you what you want and deserve than anybody else in the SSA -- if you have the persistence and stamina to take your case to a hearing. (Roughly 2/3s of those who apply for SSI are rejected at their first application, for example; yet 2/3s of the applicants who appeal their case all the way to the ALJ are awarded their SSI benefits.)

If by some chance the ALJ turns you down, too, then you may sue the SSA. However, to do that you must find a lawyer. There aren't many lawyers who specialize in Social Security cases, and only a very small fraction of them are familiar with the Work Incentives.

As you study the Work Incentives and prepare to look for work, you may wish to inquire at your local vocational rehabilitation office or Center for Independent Living to see if they have any experts on the Work Incentives among their staffs, in case you need help filing a Work Incentive plan or a local advocate to help you straighten out a problem.

Be aware that if you aren't willing to keep a few simple records, you shouldn't bother to apply for Work Incentives. You need to keep records on all your income and expenditures under your Work Incentive plans. These records enable you to prove that you are spending your Work Incentive benefits properly when your case is reviewed. You should discuss recordkeeping procedures with your local SSA Field Office Work Incentives contact

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person and any other experts whose help you seek. (We will have more to say on records and reviews below. Trust us -- they're not so bad. We've even included a few sample forms for you to copy and use.)

You may be one of those people who receives both SSI and SSDI. If so, you can apply SSI Work Incentives to your SSI benefits, SSDI Work Incentives to your SSDI benefits and the SSI/SSDI Work Incentives to whichever benefits are most appropriate. Many people take part in two or more Work Incentive programs at the same time. (Of course, we understand that this **does** get complicated!)

SSDI WORK INCENTIVES: ALLOWABLE INCOME

If you receive SSDI, you may earn up to $500 a month without losing a penny of your benefits, or $810 if you are blind. You may do this for as long as you like. For most people on SSDI, this will nearly double their income. That may be enough for them. Others, who plan to return to full-time work eventually, can build up years of valuable experience part-timing. The only drawback to working part-time is that you may use up part or all of your Trial Work Period (see below).

The $500 figure ($810 for blind people) is a threshold. Above that point, you have reached the "Substantial Gainful Activity Level." Remember that phrase; it will come up again and again.

How To Apply: Notify your local Social Security Administration Field Office that you plan to return to work part time.

Records You Will Need To Keep: Copies of all your paychecks and SSDI checks, and all your correspondence with the Social Security Administration.

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

SSDI WORK INCENTIVES: TRIAL WORK PERIOD

The first nine months after you return to work, earning more than $200 per month, you will automatically receive your full benefits. This is your Trial Work Period. If you are earning more than $500 (or $810 for a blind person), you have crossed the line into the Substantial Gainful Activity Level, and you will receive three months of further benefits before they are reduced or cut off. (This is known as your "Grace Period.") The Trial Work Period is your "buffer zone;" it lets you try yourself back in the working world without any risks. If you cannot succeed in working on your first attempt, you will not be punished for failing and your benefits will not be interrupted.

With two checks coming in every month, the Trial Work Period is also a good time for you to invest in yourself. Buy that new wheelchair, modify your van, get a computer, do whatever you need to do to insure that your new job is going to work out for you. If you don't need to purchase anything right away, save the money -- because you will eventually!

Although nine months of Trial Work Period is usually all you get, they don't have to be nine continuous months. If you return to work, get sick, stop and then go back later, your Trial Work Period picks up where you left off. The Trial Work Period Work Incentive is designed to reinforce the old adage, "If at first you don't succeed, try, try again."

After 60 months of employment, you may be eligible for another Trial Work Period, which you can use if you ever lose

your job and return to SSDI. You also get a new nine month Trial Work Period if you develop a second disability and become re-eligible for SSDI after having worked awhile.

How To Apply: Notify your local SSA Field Office that you'll be returning to work. If your benefits are cut off in error, notify your local SSA Field Office immediately.

Records You Will Need To Keep: Copies of your monthly paycheck and SSDI check, copies of any papers relating to your dismissal (if you lose your job) and all of your correspondence with the Social Security Administration.

A sample Income Log form appears on page 29. Use it to record all your income, from whatever source.

SSDI WORK INCENTIVES: EXTENDED PERIOD OF ELIGIBILITY

This is another "buffer zone" Work Incentive: if you lose your job for any reason during the first 36 months after your return to work, you can re-establish your eligibility for SSDI without having to reapply for it. Your checks will start at once, without the usual waiting period.

The Extended Period of Eligibility is an extension of the Trial Work Period "lifeline," to help you make the risky transition to working without fears that your benefits will be cut off irrevocably.

The Extended Period of Eligibility begins the month after your Trial Work Period ends. If you have to stop work for any reason (such as a temporary medical difficulty), and you don't earn enough in that month to exceed the Substantial Gainful Activity Level, you can receive SSDI for that month. Your Extended Period of Eligibility doesn't restart at that point, however; it continues on until your 36 months are up.

How To Apply: You should automatically receive your Extended Period of Eligibility if you've gotten your Trial Work Period. Notify your local SSA Field Office at once if you are forced to stop working for any reason.

Records You Will Need To Keep: Copies of your monthly paychecks, copies of any papers that relate to your dismissal (if you lose your job) or leave of absence (if you have to take one), and a copy of all your correspondence with the Social Security Administration.

SSDI WORK INCENTIVES: CONTINUATION OF MEDICARE COVERAGE

If you have Medicare, you will continue to receive it during your Trial Work Period and Extended Period of Eligibility, and for 3 months after the Extended Period of Eligibility: 51 months altogether. The Continuation of Medicare Coverage Work Incentive prevents you from losing your health care benefits suddenly, which can be catastrophic for disabled people who have trouble finding private carriers to insure them. In this way it acts as another "buffer zone" Work Incentive to allow you to return to work without risking your "lifeline."

How To Apply: You should automatically receive your continuation of Medicare when you receive your Trial Work Period and Extended Period of Eligibility. If your Medicare benefits are cut off before your 51 months are over, notify your local SSA Field Office immediately.

Records You Will Need to Keep: Copies of all your correspondence with the Social Security Administration and the

Medicare authorities, as well as any medical bills that go unpaid if your benefits are cut off in error.

SSDI WORK INCENTIVES: MEDICARE FOR PEOPLE WITH DISABILITIES WHO WORK

This is the most important of the SSDI Work Incentives, and the newest. Although Congress created this Work Incentive three years ago, many people -- including some SSA Field Office employees -- have never heard of it.

Essentially, this benefit allows you to "buy-into" Medicare by paying a monthly premium, just as if you were purchasing health care insurance from a private carrier. You don't *have* to continue your Medicare by purchasing the premium; it's optional. You'd just be foolish not to. If you choose to take part in Medicare for People With Disabilities Who Work, your State Government may pay the premium for hospitalization coverage (Medicare Part A) and you will pay the premium for Supplemental Medical Insurance (Medicare Part B). States that participate in Medicare for People with Disabilities Who Work set an income standard to decide who is eligible. To find out what that income standard is, contact your local SSA Field Office.

You can only receive this Work Incentive if you've already had the Continuation of Medicare Coverage Work Incentive. You must apply for Medicare for People With Disabilities Who Work between January 1 and March 1 of the year in which your Continuation of Medicare Coverage will run out. You *should* automatically be notified by mail that you have the option of applying. If you think you may have been overlooked, you should contact your local SSA Field Office *well before* March 1.

You can continue to receive Medicare coverage for the rest of your working life, until you retire and become eligible for Medicare as a retiree.

This is an extremely important Work Incentive, because your chances of buying private health insurance are low. If you try to find coverage on your own, the chances are you won't be able to afford it. If you join a group health coverage plan at your new job, the chances are a "rider" will be attached to your insurance that prevents you from getting treatment for any medical need related to your disability. The "rider" may last for six months, two years or forever. Since your biggest medical needs are probably going to be related to your disability, a "rider" can be disastrous. Medicare, fortunately, doesn't have "riders."

Warning: When discussing Medicare for People with Disabilities Who Work with SSA staff, be careful not to call it the "Medicare buy-in." Although several disability-oriented magazines have called it that, the term is used by the SSA to refer to something else entirely, and you will cause considerable confusion if you aren't careful.

How To Apply: Fill in the form mailed to you; if you don't receive one, contact your local Social Security Administration Field Office well before March 1.

Records You Need To Keep: Copies of all your correspondence with Medicare and the Social Security Administration.

SPECIAL NOTE ON PASS FOR SSDI RECIPIENTS:

Even if you don't receive SSI, check out the section below on the Plan to Achieve Self-Support (PASS). PASS is intended for

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people on SSI, but people on SSDI can use it too. Essentially, you use all your SSDI funds to pay for work-related expenses, and claim SSI to live on.

SSI WORK INCENTIVES: EARNED INCOME EXCLUSION

If you receive SSI, but also have unearned income (such as benefits from a family trust), the SSA subtracts all but $20 of that amount from your check. Earned income, such as wages and salary, is treated differently. You get an Earned Income Exclusion on wages and salary, so you can earn up to $500 a month and still receive some benefits. The first $20 of your earned income will be excluded under the "General Income Exclusion," and the next $65 + 1/2 of the rest will be excluded under the "Earned Income Exclusion." Your SSI benefits will then be reduced by the amount of the remainder, known as your "Countable Income."

You can compute your "Earned Income Exclusion" this way: Subtract $85 from your earned income. Now divide what's left in half. The answer is the amount of your "Countable Income," and the amount of your SSI will be reduced by this amount.

An "income exclusion" is the size of your income that the Social Security Administration *does not count* when computing the amount of your benefits, *not* the amount of benefits you will receive. Get used to the term "income exclusion," because many Work Incentives are income exclusions.

You can earn up to $500 ($810 if you are blind) and still receive some SSI benefits. After your earned income exceeds $500, you may be eligible to switch to a similar program, the Section 1619(a) program.

How To Apply: The Social Security Administration should automatically apply the Earned Income Exclusion to your benefits when the IRS informs them that you are working. Contact your local Social Security Field Office if your benefits are cut or discontinued in error.

Record You Will Need To Keep: Copies of all your paychecks and SSI checks, as well as all your correspondence with the Social Security Administration.

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

SSI WORK INCENTIVES: STUDENT EARNED INCOME EXCLUSION

If you are under 22 years of age, receive SSI and attend college for at least 8 hours a week or a high school or work training program at least 12 hours a week, you can use the Student Earned Income Exclusion to earn up to $400 a month, for up to $1,620 per year. (If shop practice is included in your school curriculum, you must be in school 15 hours per week.) You can use the Student Earned Income Exclusion even if you are receiving homebound instruction because your health does not permit you to attend school.

Note: This Work Incentive is often used by developmentally disabled youths in training programs, sheltered workshops or other institutional employments settings.

How To Apply: Notify your local SSA Field Office by letter before you start work.

Records You Will Need To Keep: Copies of school records that verify your participation in a school or work training program, as well as copies of all your paychecks and SSI checks, and all correspondence with the Social Security Administration.

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

SSI WORK INCENTIVES: BLIND WORK EXPENSES

If you receive SSI because you are blind, you can exclude from your benefits *all* of your work-related expenses: guide dog expenses, transportation to and from work, Federal, State and Local Payroll taxes, FICA, personal assistance, visual and sensory aids, translation of materials into braille or on tape or disk, professional association fees, union dues, adaptive equipment, computer expenses, etc. These expenses do not have to be related to your blindness, just necessary to work.

The Blind Work Expenses Work Incentive comes on top of your Earned Income Exclusion. Your Blind Work Expenses are taken out first, and then your Earned Income Exclusion is computed. Most visually-impaired persons on SSI who go to work will be eligible for both, so be sure to apply for both, even if you think you might not be eligible.

You will need to estimate your monthly work expenses before you can file your application. Annual work expenses (fees you pay once a year) are figured into your estimate by dividing them by 12.

If you are over 65, you must have begun to receive SSI for your blindness before you turned 65.

How To Apply: Notify your local Social Security Administration Field Office in writing before you begin work, and include the estimate of your monthly employment-related expenses, along with copies of any documents that support your estimate, such as receipts or invoices.

Records You Will Need To Keep: Keep dated receipts of all your work-related expenses in chronological order, along with an itemized list with monthly totals. Also, keep copies of all your SSI checks, paychecks and correspondence with the Social Security Administration.

A sample record keeping form for Blind Work Expenses is on page 30. You can use it to track your actual monthly work expenses, so that you can verify your estimated monthly work expenses. On the lower portion of the sheet below the box, record expenses paid annually or quarterly. Be sure to divide these by 12 (or 4, for quarterly expenses.) As always, it is good idea to pay for all your work expenses by check from a single account, to build up a proper "paper trail." Record the check number for each work expense you pay for by check.

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

SSI WORK INCENTIVES: PLAN FOR ACHIEVING SELF-SUPPORT (PASS)

The Plan to Achieve Self-Support Work Incentive, known as "PASS" for short, helps you keep income that would otherwise disqualify you from receiving SSI. This income can be earned or unearned, as long as you set it aside for the purpose of helping you find and keep a job. PASS is frequently used to help you keep Worker's Compensation benefits, insurance benefits, the settlement from a lawsuit, etc. You can also use PASS to help you save money given to you by your family, including an inheritance. You can even file a PASS when you apply for SSI, to help you keep savings that would otherwise make

you ineligible -- as long as you use the money to help you find and keep a job.

Under some circumstances, the Social Security Administration will increase the size of your monthly check, up to 100% more than what you currently receive. If you have SSDI benefits that prevent you from getting SSI, you can file a PASS plan that invests your SSDI benefits in work-related expenses and then you are eligible to claim SSI benefits that you can live on. PASS is extremely flexible.

A PASS consists of a written plan that lists the steps you will take to prepare for work, the amount of money you'll need, the expenses you'll have to cover, the source or sources of the income you'll use for your PASS and a timetable that shows when you'll complete every phase of the PASS and become ready for work. Your PASS plan must be approved by your local Social Security Administration Field Office, and is subject to periodic reviews (see the section on **REVIEWS**, below).

Your PASS plan can include expenses for tools, adaptive equipment, tuition, personal care, vehicle modification, special work-related medical expenses, etc. (Transportation to and from work isn't usually approved.) Congress has instructed the SSA to interpret the PASS guidelines broadly, so that as many people as possible may be covered by PASS.

The Social Security Administration suggests that you obtain outside help to prepare a PASS plan and fill out the forms, since you will be required to prove that you are capable of performing the work you plan to do, and that your plan to start work is reasonable. You may wish to consult your local vocational rehabilitation office or Independent Living Center, but this is not required.

PASS plans may cover up to three years of activities, and can be extended for one additional year. A PASS plan can be amended to reflect changing circumstances.

How To Apply: Request a PASS plan form from your local Social Security Administration Field Office. Remember, you may apply for a PASS at the same time you apply for SSI, to shelter income that would otherwise make you ineligible for SSI.

Records You Will Need To Keep: 1) your written PASS plan, with all amendments; 2) all receipts, invoices, paychecks, SSI checks, bank statements and other financial records that are a part of you PASS plan, filed in chronological order; 3) monthly income and expense records; 4) a month-by-month narrative of your progress toward completing your PASS plan; and 5) a complete record of your correspondence with the Social Security Administration. The narrative of your progress need not be complex; a couple of paragraphs listing your PASS activities for the month will do it. It could be as simple as a list of places you applied for work, or a statement that you attended all your classes during the month.

On page 32, you will find a sample PASS Expense Log form, for you to keep track of expenses paid under your PASS plan. We recommend that you pay all your expenses by check, from a single account, to develop a proper paper trail. Always record the check number each time you enter a PASS expense into your log. Also, you can use the sample Income Log on page 29 to record all your income.

SSI WORK INCENTIVES: PROPERTY ESSENTIAL TO SELF-SUPPORT (PESS)

The Property Essential to Self-Support Work Incentive allows you to keep property you own (or may acquire, such as an inherit-

ance) which is essential to a job or business in which you earn your living. All tangible goods, such as tools and vehicles, are covered completely. You dwelling place and vehicle are covered, too, subject to the restrictions on their value we described above in the "Overview of SSI" section. Land on which you own a business or raise crops for sale or your own consumption is also covered completely. (PESS is the last U.S. Government program that promotes family subsistence farming!) Up to $6,000 of equity in a non-business property needed for your self-support is also included.

If you do not have a PESS, the Social Security Administration will require you to sell all your property (including real property other than your dwelling place) and spend all the proceeds in excess of $2,000. After you are down to $2,000 you'll be eligible for SSI. A PESS, then, is something you are most likely to file for when you apply for SSI, to establish your eligibility to keep property SSA would otherwise make you get rid of. You will also need to file a PESS when you inherit or otherwise acquire valuable property you need to keep for your self-support.

How To Apply: If you are applying for a PESS at the same time as you're applying for SSI, attach your PESS to your SSI application forms. If you're filing a PESS to allow you to keep property you acquire after you receive SSI, notify your local SSI Field Office by letter as soon as you acquire the property. Your PESS plan consists of a detailed inventory of the property in your PESS and a narrative statement that explains how you will use it for self-support, with an estimate of the income you expect to receive.

Records You Must Keep: A copy of your PESS plan and any amendments to it, a monthly chronological accounting of all income and other benefits you received from your PESS, a chronological record of all receipts and other financial records related to your PESS and copies of all your correspondence with the Social Security Administration.

SSI WORK INCENTIVES: SECTION 1619(a): Special SSI Payments for People Who Work

Once you pass the Substantial Gainful Activity Level of $500 (or $810 if you are blind), you may still receive SSI by excluding some of your work income. (Remember, "an income exclusion" consists of the income SSA *does not count* when computing how much you will receive in benefits, *not* the amount you will receive in benefits.) The SSA will calculate your exclusion in the same way that Earned Income Exclusions and Student Earned Income Exclusions are calculated (see above). First, SSA will exclude the first $20 of income under the general exclusion, and the next $65 of earned income under the Earned Income Exclusion. Next, SSA will exclude half of the rest of your earned income up to $500. The total earned income that can be excluded under Section 1619(a) is $385. That's $20 + $65 + 1/2 of $500.) If your earned income falls under $500 after the exclusions, you can receive some SSI benefits. The amount you receive will vary from state to state.

As if it weren't already complex enough, Section 1619(a) can be used in conjunction with PASS or the Impairment-Related Work Expenses (see below). If you have monthly employment expenses covered by PASS or IRWE, you take them off the top, and *then* apply the Section 1619(a) exclusions.

How To Apply: Before your monthly in-

come reaches the point where it would exceed the $500/$810 threshold, notify your local SSA office by letter that you plan to use a Section 1619(a) Work Incentive. The letter should include your calculations proving your eligibility. Your application will probably come after you have used the Earned Income Exclusion and/or the Student Earned Income Exclusion for a while, so the SSA Field Office will be familiar with your case.

Records You Will Need To Keep: Copies of your paychecks, SSI checks and correspondence with the Social Security Administration.

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

SSI WORK INCENTIVES: SECTION 1619(b): Continued Medicaid Eligibility

You may continue to receive Medicaid even if you no longer receive SSI, as long as your income falls below a threshold and you need Medicaid benefits to enable you to work. The formula for calculating the threshold differs from state to state, since Medicaid is a joint Federal/state program, and state governments have considerable say over what Medicaid benefits they will offer.

How To Apply: Contact your local SSA Field Office and your local Medicaid office before your income rises above the level at which you will stop receiving SSI.

Records You Will Need To Keep: Medical records that verify you need Medicaid to continue working, and copies of all your paychecks and SSA checks, and all your correspondence with the Social Security Administration.

A sample Income Log can be found on page 29. You can use it to record all your income, from whatever source.

SSI/SSDI WORK INCENTIVES: SUBSIDIES

This Work Incentive is available to people who are receiving SSI, SSDI or both.

Subsidies are reasonable accommodations an employer makes to enable a worker with a disability to hold a job when that particular disabled worker cannot do the job as well as an able-bodied worker. If a disabled worker is assigned fewer or simpler tasks than an able-bodied worker would be in the same job, the difference between the value of their work is called a Subsidy if they are both paid the same. If a disabled worker has a job coach to supplement his or her work, the job coach is considered a Subsidy if the disabled worker is paid the same as an able-bodied worker.

The Social Security Administration deducts the value of the Subsidy from your earnings when they calculate whether you have passed the Substantial Gainful Activity Level ($500 for non-blind persons and $810 for blind people). Only the real value of your work is considered when the SSA computes whether you have passed the Substantial Gainful Activity Level. A Subsidy is not subtracted from your countable income when they compute the size of your SSI check.

A Subsidy could help you "phase-in" to a job you're not quite ready for yet. The Subsidy Work Incentive is most frequently used by people who work in supported employment, sheltered workshops and other institutional employment programs.

How To Apply: Discuss with your employer whether you will receive a Subsidy. If you will receive a subsidy, your employer needs to contact your local SSA Field Office and inform the staff member who is handling your case.

Records You Will Need To Keep: Your employer should be able to document the existence of your Subsidy. You should keep

a copy of all his or her correspondence with the Social Security Administration, as well as all your paychecks and Social Security checks.

SSI/SSDI WORK INCENTIVES: SECTION 301 CONTINUED PAYMENT UNDER A VOCATIONAL REHABILITATION PLAN

If you should make a medical recovery and cease to be disabled, you may continue to receive your SSDI or SSI checks for a limited time while you complete your vocational rehabilitation program, **as long as you are already in a vocational rehabilitation program when your medical recovery occurs.** This benefit is available to persons who receive SSI, SSDI or both.

A medical recovery is not necessarily a full recovery to your pre-disabled state of health and fitness. In some cases, you can achieve medical recovery if drugs control your disabling symptoms enough to eliminate them as a barrier to work.

This Work Incentive exists primarily because vocational rehabilitation medical services such as surgery frequently result in a medical recovery; yet a consumer of vocational rehabilitation services may need to continue in his or her program after the surgery or other medical service is complete.

If you make a medical recovery, the Social Security Administration will decide whether you need to complete your VR program to become self-supporting and independent. If they decide that you need to finish, your benefits will be continued just as if you remained disabled.

Anecdotal evidence and an informal survey suggest that this particular Work Incentive is rarely used.

How To Apply: When you or your physicians send in medical records to document your medical recovery, make sure that you also include a letter informing your local Social Security Field Office that you are in a vocational rehabilitation program and wish to claim a Section 301 Continued Payment. The SSA will make the decision in conjunction with your vocational rehabilitation counselor. You may find yourself sending in your letter of application after you receive a Notice of Review (see below under "A WORD ABOUT REVIEWS" for more information about the Notice of Review letter) informing you that you are considered medically recovered. We strongly suggest that you contact the SSA first, before you reach medical recovery, because otherwise SSA may cancel your benefits first and ask questions later.

Records You Will Need To Keep: A copy of all the medical records sent to the Social Security Administration, and all your correspondence with the SSA on this or any other matter.

SSI/SSDI WORK INCENTIVES: IMPAIRMENT-RELATED WORK EXPENSES

We saved the best for last.

The Impairment-Related Work Incentives (known as IRWE) are the most flexible and enduring of all Social Security Work Incentives. You can receive benefits through IRWE for your entire working life. IRWE is the most commonly-used of all Social Security Work Incentives.

IRWE provides continuing SSI or SSDI benefits to offset the unique expenses disabled workers have to carry in order to work. IRWE enables you to start working at an entry-level salary and continue to

receive your benefits in order to pay for personal care, medical costs, mobility aids, adaptive equipment and other "impairment-related" costs.

If you receive SSDI, the total amount of your IRWE expenses are subtracted from your earnings, and only the remainder are used to determine if you have passed the Substantial Gainful Activity Level. If your job earnings minus your IRWE fall below the Substantial Gainful Activity Level, you can receive your full SSDI benefits for several years after you begin employment.

If you receive SSI, your IRWE expenses are still subtracted to determine if you have passed the Substantial Gainful Activity Level, but IRWE also works for you in a second way: your IRWE becomes another income exclusion, one that is figured on top of your Earned Income Exclusion.

The expenses that go into your IRWE must meet three criteria. First, you must be paying them instead of some third party such as Medicare, Medicaid, vocational rehabilitation or your employer. Second, they must be directly related to your impairment, and not general work expenses. Third, they must strictly work-related, and not general disability-related expenses.

IRWE has a number of tricky loopholes, and the trickiest of them concern IRWE and personal care. Personal care you receive at home to prepare you for work and personal care on the job can be included under IRWE. Personal care at home after work or on weekends cannot be included under IRWE. Veterans of IRWE suggest that you pay your personal care assistant with separate checks: one for IRWE hours and one for non-IRWE hours. Separate checks allow you to document precisely which dollars went to IRWE-covered care and which ones covered evening and weekend care.

Transportation expenses are handled differently. You can deduct the entire cost of vehicle modifications, even if you plan to use your vehicle for non-work purposes. The SSA also allows you to include milage to and from work at an approved rate. (Check with your local SSA Field Office to determine which rate applies to you.) Public transit expenses are only included under IRWE if they are higher than the public transit costs an able-bodied rider would pay. If your local paratransit costs more than the mainline bus service, your paratransit costs can be included. If there is no accessible public transit where you live, cab fare can be included in your IRWE.

All medical devices, such as splints, dialysis equipment and wheelchairs, are included under IRWE. Your computer, typewriter, TDD and other adaptive gear are also included under IRWE if, and only if, you use them on the job and paid their costs out of your own pocket. (If you purchased them through an insurance plan with co-payments, such as Medicare, your co-payments are included under IRWE.) All disposable medical supplies used on workdays are included under IRWE.

The routine medical care you require to manage your disability can go into your IRWE, including diagnostic services, surgery, medication and physician's fees, but your local SSA Field Office may require you to divide your total medical expenses by the number of days in the year, and then count only the portion of your medical care bills that covers the number of days you work. (For example, if you work 20 days a month, then you can figure on deducting 2/3s of your medical expenses,

because 240 = 2/3s of 365.) Some IRWE users report that they had to list medical devices such as wheelchairs in the same way. No medical expenses can be included under IRWE unless they are related to the disability for which you receive Social Security benefits.

In choosing the benefits to be included in your IRWE and filing the documents to support it, it is important for you to remember that "grey areas" and "questionable items" can mean trouble. If your not sure than an item is something you an include under your IRWE, check with the Work Incentives Specialist at your local SSA Field Office or leave it out altogether. Don't jeopardize a good IRWE by trying to push it too far. The ***Red Book*** lists over 35 specific examples of included expenses, so it's especially important to get a ***Red Book*** if you're going to file an IRWE.

Nonetheless, the "grey areas" and "questionable items" can still get you in trouble. The comments we have received from people who have been in contact with us about the Social Security Work Incentives indicate that the list of allowable IRWE items varies from one SSA Field Office to the next, and sometimes even between two employees of the same SSA Field Office. You should always be careful to get your IRWE rulings in writing, and never depend on what you are told over the phone. Additionally, be aware that some consumers have been told that SSA can legally sue you or withhold benefits to reclaim money that was paid to you under IRWE, even if your IRWE plan was approved, as long as someone decides later on that your IRWE had mistakes in it. However, and this is important, the Administrative Law Judge will probably rule on your side if you have written proof (usually in the form of a letter) that your IRWE plan and each expense in it was approved by the SSA. In other words, the ALJ will hold the Social Security Administration responsible for the error instead of making you pay for it. (We don't want to discourage you from using IRWE. We just want you to be careful.)

How To Apply: When you notify your local SSA Field Office that you plan to return to work, attach an itemized list of IRWE expenses with the letter. Have receipts and other documentation ready to verify any expenses the Work Incentives specialist might question.

Records You Will Need To Keep: 1) a chronological file of all receipts, invoices, canceled checks, paychecks, SSI and SSDI checks and other financial records; 2) a complete chronological log of all your benefits received and expenses paid under IRWE; 3) medical documentation establishing the need for any medical services and/or medical and adaptive devices you use and 4) as always, copies of all your correspondence with the Social Security Administration. IRWE requires more recordkeeping that any other Work Incentive, but IRWE's greater flexibility and scope is worth it.

A sample IRWE Expense Log is included on page 31. We recommend that you always pay your IRWE expenses with checks drawn on a single account, to create the proper "paper trail." Always record the check number when you log in an IRWE plan expense. Record annual and quarterly expenses below the box at the bottom of the form, and divide them by 12 (or four, for quarterly expenses).

A sample Income Log form appears on page 29. You can use it to record all your income, from whatever source.

UP POPS THE DEVIL: DEALING WITH PITFALLS

The most commonly reported pitfalls in applying for and using Work Incentives are 1) inadequately trained Social Security Administration employees; 2) uncooperative Social Security Administration employees, and 3) failure on the part of the Social Security Administration to notify you that you are eligible for benefits. If you read and save this **Guide**, you should be well-informed enough to claim the benefits to which you are entitled, so that problem is taken care of. Dealing with SSA employees is another kettle of fish.

Most SSA employees are not out to hurt you, or rule against your Work Incentive plan just for the Hell of it. If somebody rules against on arbitrary grounds, or asks you to comply with additional requirements that are not spelled out in the ***Red Book***, chances are that it was done out of ignorance, not malice. SSA employees with little or no experience in Work Incentives tend to make unnecessarily conservative judgements. As one SSA employee put it, "Nobody pats you on the head for approving a good Work Incentives plan, but you can be severely reprimanded if you approve a bad one by mistake. Since we don't always have the training and experience to evaluate Work Incentives plans, we have to be careful." If you think you are in the right, just stick to your guns. Everything should work out fine.

It never helps you to return to work without notifying the SSA. You won't get away with earning a paycheck and collecting benefits, unless you are using the appropriate Work Incentives. The SSA compares their records with those of the IRS every month to spot people who have just been entered on the tax rolls. Sooner, rather than later, they will catch you and try to recover the benefits that were paid to you in error. You may find yourself facing criminal fraud charges in very serious cases. As troublesome and cumbersome as they are, you really must obey the Work Incentives rules.

MORE ON RECORDKEEPING

It isn't difficult or complex to keep the records you need for your Work Incentive benefits. Don't let yourself be intimidated by the notion of keeping records. As long as you are consistent about keeping things organized and follow these simple rules, you'll do fine.

First, never throw anything away. You need a chronological "paper trail" to document your Work Incentive history. Keep all your letters from the Social Security Administration, Medicare, Medicaid, etc. Keep copies of your Social Security checks, the stubs from your paychecks and copies of the checks you receive from any other source of income.

Second, use a checking account to pay all the bills covered by your IRWE, Blind Work Expenses, or PASS. Your canceled checks, along with invoices and receipts, will make up the paper trail of your Work Incentive income and expenditures. If you are using Work Incentive benefits to cover personal care, pay your attendant with two checks: one for the hours covered by your Work Incentives, and another for hours that are not covered. In fact, this holds for any purchase you make: whenever you buy something with your Work Incentive benefits, pay for it with a check that covers *only* items paid for with your Work Incentives benefits.

Third, keep all your Work Incentives

papers in chronological order. Buy a notebook and tape every piece of paperwork to a page. Underneath each piece of paper, write in the date you received it, along with any other information you might need later to explain that particular expense or income. (As I've said before, keep *all* of your correspondence with the Social Security Administration, as well as all of your financial records.)

Fourth, never send original paperwork anywhere in the mail. *Always* keep your originals, and send only copies. This holds especially true when you are mailing copies of your records to a Social Security Field Office, where they receive literally tons of mail a year.

Fifth, keep a table of your income and a table of your expenses. The table of your income is very simple. Just list the date and amount of all the income you receive, from any source. The table of your expenses is not much more complex. You need to record the date, the amount spent, who received the money and what the money was for.

Sixth, keep a chronological record of all your phone contacts with the Social Security Administration: the date, time, purpose of the call, any information you received or gave out and the name of the person you spoke to.

That's all you need!

(Sample recordkeeping forms to get you started can be found in the back of this **Guide.** These were developed by the Center to give you an idea of what you need to do and ARE NOT officially approved SSA documents. Always discuss recordkeeping procedures with the SSA Field Office staff person who handles your Work Incentives, because he or she will set the standard you'll have to meet.)

REVIEWS

The Social Security Administration will review your case every so often to determine if you are still eligible for the benefits you receive. Usually, the frequency of your reviews will be determined by the nature of your disability. If you have a permanent, irreversible disability such as a spinal cord injury you will be reviewed every seven years. If you have a disability that might reasonably be expected to improve, such as cancer, you will be reviewed every three years. If your application for Social Security benefits contains a medical prognosis that specifies a time after which you might no longer be disabled, you will be reviewed at that time.

If you enter a Work Incentive program, you will probably be reviewed, and while you are in a Work Incentive program, you may be reviewed more frequently than you were before you entered it.

Reviews are automatically triggered by certain changes in your status. If you return to work, the IRS will inform the Social Security Administration, and you'll automatically be reviewed. If your status under the 1619 Work Incentives changes, you'll be reviewed. You could also be reviewed if your local Social Security Office "receives information" that your medical status has changed.

Reviews may be done by mail, face-to-face, over a phone or by TDD. During a review you will be required to answer questions put to you by Social Security Administration employees. You may also be required to provide various documents, such as detailed financial and medical records, and even to submit to a medical exam to prove you are still disabled. (The Social Security Administration will pay for it.) You need to be able to document

your income and disability-related expenses right down to the penny. If you haven't kept the records, you can't expect to keep your benefits.

Anecdotal evidence suggests that reviews (sometime referred to as "audits" by consumers and non-SSA employees) are frightening events for many people on Social Security, especially persons in a Work Incentive program who have not kept good records. The language in the Notice of Review letter *does* seem ominous. However, an SSA review is not the same thing as an IRS audit. The IRS audits you to prove that you've done something wrong; the SSA reviews you to verify that you are still eligible for the benefits you are receiving.

Two things can go wrong during a review. First, you may find that Congress has changed the rules since your last review. There's not much you can do about that, if it happens. Usually, the Social Security Administration will not try to recover benefits from you if they failed to correct your account when the rules changed. You are more likely to come up against an inadequately-trained SSA employee who is unfamiliar with your case, and who throws out your Work Incentive plan because he or she doesn't understand it. You may be able to resolve this type of problem by taking your case to the reviewer's supervisor. If that fails, you can appeal any changes in your benefits to the Administrative Law Judge, who will almost always rule in your favor. (The famous quad cartoonist John Callahan had his Work Incentives program thrown out several times -- but he always got it back.)

Ninety-nine times out of a hundred, reviews will be no problem, if you've kept your records in order.

REFORMS

Despite its many useful features, we don't think the existing Social Security Work Incentives system does a very good job of serving the taxpaying public or persons with disabilities. Only a few thousand people in the United States are able to use the Social Security Work Incentives to improve their employability and meet their independent living needs while they make the transition into employment. There are millions of people, on the other hand, who could benefit from the Work Incentives. In a very real sense, the Work Incentives system is a good idea still waiting to be implemented. Although the Work Incentives have steadily improved since the 1970's, when very few people could work and keep any Social Security benefits at all, the Work Incentives systems still needs some major reforms. Some of these reforms would have to come from Congress, and would cost a lot of money. However, the most important reforms could be made by the new Clinton Administration with the proverbial "stroke of a pen," and Congressional approval wouldn't be needed at all! (Nor would these reforms cost anything.)

The Social Security Administration could launch an internal campaign to ensure that all SSA employees who deal with the Work Incentives are well trained and take a positive and creative approach to Work Incentive plans. SSA employees complain that an assignment to handle Work Incentives is considered a dead end within the SSA, a position from which future promotions are unlikely. They also report that upper managers in the SSA are unduly punitive when a Work Incentives

plan with errors in it is accidentally approved. The SSA higher-ups seem to be more concerned about preventing the SSA from being ripped off than they are about promoting employment, an attitude that has trickled down from the SSA's political appointees in Washington D.C. over the last 12 years. (No doubt many political appointees within the SSA have also encouraged clumsy internal handling of the Work Incentives to limit access to them as a misguided cost-control measure.)

Since few SSA employees are really knowledgeable about the Work Incentives, and since the penalties for approving an erroneous Work Incentives plan are so high, many SSA employees tend to err on the side of caution and reject perfectly legitimate Work Incentives plans, or cut off benefits to which someone is still entitled. They do this, not out of malice (although many persons with disabilities feel that they are treated maliciously by the SSA), but because they don't care to risk their careers on something they don't fully understand.

The Social Security Administration could write new rules governing the way the Work Incentives are handled, and take a cue from the new Rehabilitation Act. The new Rehabilitation Act establishes for the first time a principle of "presumptive eligibility." Until now, persons with disabilities had to prove that they were capable of benefiting from vocational rehabilitation services; now they are presumed to be eligible for vocational rehabilitation services and the burden of proof is on the vocational rehabilitation agency to prove that they are not. The SSA needs to change its rules so that people who want to use the Work Incentives plan are "presumed eligible" to do so. The new rules would state that if an IRWE or Blind Work Expenses plan is rejected, the SSA is under an obligation to correct the faulty plan. It would also be helpful if the SSA were required to screen every case to determine whether a Work Incentives plan would allow somebody to keep benefits that are about to be cut off. The SSA should be required to provide "clear and convincing evidence" that someone is not entitled to a specific benefit before denying it or cutting it off. ("Clear and convincing proof," the highest civil standard of evidence, is the standard applied by the new Rehabilitation Act to vocational rehabilitation agencies that wish to deny services to persons with disabilities.) Already, Congress requires the SSA to interpret the PASS rules as broadly as possible to serve the greatest number of persons, and to assist PASS applicants whose plans are faulty. If the SSA begins to devote as much staff time and effort to making the Work Incentives system work in a positive way as it now does to searching for reasons to reject Work Incentives plans and cut off benefits, then these new requirements will not pose any additional burden on the SSA.

The SSA needs to begin to devote more of its multi-million dollar budget for publicity and public education each year to spreading the word about Work Incentives outside the agency. The SSA could start by reaching out to state vocational rehabilitation agencies, independent living centers, advocacy groups, vocational facilities and other public and private agencies that serve persons with disabilities. In the long run, the SSA should also be required to develop a campaign of education aimed at persons with disabilities themselves.

To help bring this about, persons with disabilities and the professionals that work with them need to do three things first: 1) Educate ourselves and each other about the Work Incentives; 2) Insist on the benefits that we are entitled to, even if they are denied to us at first (or even if they are denied to us a hundred times); and 3) advocate with Congress, the White House and the Social Security Administration itself to see the Work Incentives system made workable. This Guide is part of that campaign. If thousands of informed persons with disabilities begin to demand what they are entitled to, a "critical mass" will form and begin to break down the barriers that have been put up inside the SSA to prevent persons with disabilities from using the Work Incentives.

Congress probably will not want to expand the Work Incentives system until the Federal deficit is brought under control (although a case could be made that if the problems with the Work Incentives system were fixed, more persons with disabilities would be working -- and the Federal and state governments would be spending less to care for them). Still, if it were politically possible, it would be advantageous to recreate some of the SSA Work Incentives along the lines of the Work Incentives available to people who receive the Social Security Old Age Pension. They can earn up to $7,400 without any penalty; if they earn more they lose only $1 of Social Security benefits for every $2 they earn. Once you reach the age of 70, there is no penalty for working at all. Moreover, the amount an Old Age Pension recipient may earn is indexed to inflation, so it goes up automatically every year. Many activists would like SSI and SSDI recipients to get the same deal, but Congress is likely to balk at the costs.

A more modest and more achievable goal would be to switch IRWE from an income exclusion to an income support. Disabled workers would then receive the actual amount of the work expenses associated with their disability, which would directly subsidize their employment needs. It would also be helpful to allow SSI recipients to earn $500/$810 per month without penalty, just as SSDI recipients do, and allow them the same "buffer-zone" benefits that SSDI recipients enjoy: a Trial Work Period and an Extended Period of Eligibility. Since statistics show that people with little or no work history before they become disabled have the hardest time making the transition to employment, they deserve every break that could be given to them.

ADDITIONAL RESOURCES

There are some additional authorities on the Social Security Work Incentives you may wish to consult. David Scarborough is the author of "*WORKING WHILE DISABLED,*" the ultimate guide to PASS. He also has produced an instructional video on PASS. He can be reached at (817) 861-5283, or PO Box 202205, Arlington TX 76006. Another helpful expert is Mr. Harry Hall of The Development Team. Mr. Hall and his Team have one of the best, if not the best, record of helping persons with disabilities get jobs. The Development Team can be reached at (410) 563-2170, or 1615 Thames St. Suite 300, Baltimore MD 21231.

Many Goodwills around the country are now helping consumers to write PASS plans as part of a national campaign to increase the use of PASS. Check the Goodwill in your area to see if they offer this

service yet. (If they don't, try to get them interested!)

SUBSIDIZED HOUSING, FOOD STAMPS, AFDC, AND GENERAL RELIEF

Food Stamps, AFDC and General Relief are the three joint Federal/state programs which, along with Medicaid, are collectively are known as "welfare." Food Stamps are coupons issued by the Department of Agriculture to help people with very low incomes buy food. Aid to Families with Dependent Children (AFDC) supports families with minor children. General Relief provides an income to unemployed persons who don't qualify for unemployment insurance, SSI, SSDI, AFDC, or other income assistance. Each of these programs is "voluntary," in that a state can choose not to participate. Most states offer AFDC and Food Stamps, but General Relief is becoming rare, a casualty of tight budgets and the recession. If you receive any of these benefits, they will probably be drastically cut or eliminated when you begin to work, unless you are careful to do some research first.

Every state that participates in one of these three welfare programs is supposed to provide services to persons who are leaving welfare to become self-sufficient. These programs are sometimes referred to as "workfare." "Workfare" should help you keep some of your benefits after you return to work, for a while at least. Unfortunately, there is so much variability between "workfare" programs from one state to the next that they make the Social Security Administration Work Incentives look like a model of simplicity and careful centralized planning. We have no way of guessing what welfare benefits you may be able to keep in your state; and there will probably be differences between the benefits offered from one town to the next, since some "workfare" programs are administered by local advisory councils. We suggest that you consult with your caseworker well before you are ready to return to work and explain what you are trying to do. He or she will have to guide you. Hint: Your local Job Training Partnership of America program (JTPA) is almost always going to be part of the local "workfare" system. If your caseworker can't or won't help, try the JTPA. In some states, you may automatically be enrolled in "workfare" whether you think you are ready or not, because the Federal Government encourages states to have 90% or better rates of enrollment in "workfare," whether this is realistic or not.

Subsidized housing programs are administered by local authorities, charitable groups and private contractors on behalf of the Federal Department of Housing and Urban Development (HUD). HUD does not have a set of formal Work Incentives, but many HUD programs, including Section 202 housing for elderly and disabled persons and Section 8 housing subsidies, will allow you to remain in subsidized housing after you return to work -- at least for a while. You will have to pay a higher rent as your income goes up, and you rent will probably be based solely on your gross monthly income. (In other words, HUD doesn't recognize PASS, IRWE or other income exclusions, though they do sometimes reduce your monthly rent by the amount of your monthly medical costs.) Chances are, the manager of the subsidized housing where you live is not familiar with the rules that will allow you to stay in subsidized housing; he or she may

think you have to move out as soon as you start work. It is not a good idea to simultaneously burden yourself with starting work and moving, and it may not be practical financially, either. Ask the manager to check with your state or regional HUD office to determine what kind of rent adjustment might allow you to stay in your present housing for a while.

Once again, we suggest you do your research well before you figure on starting work. If you find out that you need to move out of your subsidized housing, you need to know that as early as possible.

VETERAN'S ADMINISTRATION WORK INCENTIVES

Benefits to veterans of the United States Armed Services are administered by the Federal Department of Veterans' Affairs (or "VA" for short). They include the VA Pension, the VA compensation, VA Vocational Rehabilitation, the Housing and Automobile Grants and medical services.

The VA Compensation is given to veterans who became disabled while in the service or because of something that happened to them while they were in the service; in other words, their disability is "service-connected." The VA Pension is given to eligible veterans with non-service connected disabilities. The VA's program of Vocational Rehabilitation (VA/VR, for short) is available to veterans with service-connected disabilities who are considered medically able to work, while the Housing and Automobile Grants are available to veterans who want to buy an accessible house or adapted vehicle.

Service-connected disabilities are judged on a percentage basis: a veteran may be 10%, 50%, 100% or some other percentage disabled. The amount of VA Compensation is based on the percentage-level of the veteran's disability. The greater the percentage of disability, the higher the pension. The medical services a veteran is eligible for depend on the type of disability the veteran has. A similar evaluation system is used to determine the amount of VA Pension that a veteran with a non-service connected disability is eligible for. A veteran with more than one disability, service-connected or not, can receive percentage points for each disability.

VA Compensation, VA medical services and the Automobile and Housing Grants are lifelong benefits available to any veteran who receives them. They are not reduced or eliminated when the veteran returns to work; the veteran continues to receive his or her full benefits. As far as these benefits are concerned, there is no "work penalty."

A veteran who receives a VA pension may lose some benefits when he or she returns to work. A VA Pension is calculated on the basis of a veteran's income, as well as the nature and extent of the veteran's income. (A veteran whose disability gets worse, or a veteran whose income declines, may get an increase in his or her VA Pension.) A veteran with a VA Pension does not get a "Grace Period" of a few months to collect his or her pension while starting to earn a paycheck. The benefits will be reduced as soon as the VA is informed of the change in the veteran's income. (The IRS will probably furnish this information to the VA almost at once.)

Some veterans who are only 60% disabled still have a hard time finding self-supporting work, so they receive a "Code 18 100% Unemployability" benefit. Sixty percent of the veteran's disability must be caused by one specific disability, and there

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must be verifiable complicating factors that prevent the veteran from sustaining employment. (These factors can include one or more non-service connected disabilities.) This benefit has to be renewed periodically; the veteran receiving it has to certify that he or she has not worked. A veterans who receives a "Code 18 100% Unemployability" benefit is qualified for Veterans' Affairs Vocational Rehabilitation, but the benefits stop as soon as the veteran finishes training, whether or not the veteran has a job.

VA Vocational Rehabilitation can pay for up to 48 months of training at a vocational school or college. VA/VR services include full payments for tuition, books and tools, as well as a stipend for dependents. The VA Prosthetics unit, a branch of the Medical Services program, provides wheelchairs, prosthetics, specialized equipment and furniture, wheelchair cushions, braces and any other kind of durable medical equipment the veteran needs. A veteran is eligible for VA/VR services if he or she is medically stable and passes evaluations and diagnostic tests to prove that he or she is suited for the career he or she intends to pursue.

Veterans who think they may be eligible for any of these services need to apply for them at their nearest VA Local Service Office. (For many of you, this may mean traveling to a different city. The VA will pay your travel expenses under some circumstances.) Many state governments have a comprehensivesystem of Veterans Services that includes counselors who can advise you or help you apply for benefits; check your phone book, or check with local veterans' groups. (Some veterans' groups, such as a Paralyzed Veterans of America, have their own counselors.)

WORK INCENTIVES IN THE FEDERAL TAX CODES (IRS WORK INCENTIVES)

Believe it or not, the Infernal Revenue Service (sic) has several Work Incentives you can take advantage of. They usually kick in just as your income is starting to rise past the point where you can no longer use Social Security Work Incentives. This provides you with a smoother transition off your Social Security Work Incentives, just as your Social Security Work Incentives provide with a smoother transition into working. Social Security Work Incentives will help you get an entry-level job and begin to climb the ladder of success; the IRS Work Incentives will help you as your income increases and you move closer to financial security. You can always claim your IRS Work Incentives, no matter how rich you get.

Be forewarned -- IRS rules make the Social Security Administration's rules look simple and well-organized. As a matter of fact, the IRS's procedures make the Social Security Administration look like a model of efficiency. A Congressional study showed that only 60% of the people who called the IRS for tax advice got correct answers. For this reason, we suggest that if you use IRS Work Incentives extensively, you get professional help to prepare your taxes. If you cannot afford to hire a professional tax accountant, there are a number of voluntary agencies that can provide you with tax-preparation help. Contact your local IRS office or your local chapter of the American Association of Retired Persons. (The AARP has the largest and best-trained cadre of tax-preparation volunteers, and their volunteers often have personal experience dealing with many of the IRS Work Incentives.)

Remember, no matter who advised you or prepared your taxes, the IRS will hold **you** responsible for any errors -- so **be careful.** Of course, the IRS will hold you responsible even if the person who gave you the bad advice was an IRS employee -- so there really isn't any security anywhere. However, if you can prove in writing that an IRS employee advised you incorrectly, you will only be liable for back taxes and any interest on them -- **not the penalty.** Therefore, anytime somebody from the IRS tells you something, **get it in writing.** This could be your only defense in case of a slip-up.

You should also be aware that Congress changes parts of the Tax Code every year. Therefore, this section of your Guide will only discuss the IRS Work Incentives in general terms. Consult a current IRS tax guide for specific details on the current rules.

MEDICAL CARE DEDUCTIONS

All of your medical care expenses are tax-deductible. This includes your work-related medical expenses, such as wheelchair repair, personal care, medications, adaptive equipment, etc. The catch is that if you claim an unusually large percentage of your income -- such as $5,500 out of annual earnings of $20,000 -- you can be certain that at some point you will be audited by the IRS, because their computers will "flag" your return for further study.

The best way to insure that all of your medical expenses are honored as tax deductions is to make sure you have current prescriptions for everything you buy and every service you pay for: bedpads, catheters, wheelchair, personal care services, home modifications, etc. Even if you don't have to present a prescription when you buy something (like bedpads or a wheelchair cushion), having the prescription verifies the necessity of the items or services, and covers you by establishing their deductibility.

Note: If you pay your personal care assistant directly, the IRS will want you to take out taxes, FICA and unemployment insurance. If you don't, you could be fined and hit for the back taxes. The IRS will be extra sticky about this if you have been taking the tax deduction for using a personal care assistance, without withholding the taxes, Social Security and unemployment insurance for your assistant(s). You need to get a copy of IRS Publication 926, Employment Taxes for Household Employers and follow the procedures in the book, a tedious but necessary chore.

Certain disability-related expenses are not considered "medical" by the IRS, such as paratransit fees, vehicle modification costs, readers, adaptive equipment used only on the job, guide dog expenses, etc.

How to Apply: File Form 1040, using the Schedule A form. You will need the instruction book for Form 1040.

Records You Will Need to Keep: 1) an itemized, day-by-day log of all medical expenses; 2) all bills, receipts, prescriptions, invoices and canceled checks, filed in chronological order; 4) the withholding records required from you as an employer (outlined in IRS Publication 503); and 5) copies of all your tax returns and correspondence with the IRS. You would do best to use the same recordkeeping procedures and precautions we described above for people who use Social Security Work Incentives.

A sample Medical Expenses Log appears on page 33 of this Guide. We recommend you pay all your deductible medical

expenses with checks drawn on a single account, to establish the proper "paper trail."

CREDIT FOR THE ELDERLY AND DISABLED

You may claim the Credit for the Elderly and the Disabled during your SSA Trial Work Period, as long as your work is not gainful and substantial. (Your work may be either "gainful" or "substantial," but not both.) The IRS may judge "gainful" and "substantial" differently from the Social Security Administration, so check with your local IRS office before you try to claim the Credit for the Elderly and Disabled.

How to Apply: File Schedule R along with your Form 1040. You will need a copy of IRS Publication 524, the instructions booklet for Schedule R.

Records You Will Need to Keep: 1) Your SSA Work Incentives records; 2) copies or stubs of all your paychecks and 3) copies of all your tax returns and all your correspondence with the IRS and SSA.

A sample Income Log from appears on page rr. You can use it to record your income; be sure to log every check, from every source.

CHILD AND DEPENDENT CARE CREDIT

This is a Work Incentive for caregivers. If you pay someone to look after a disabled child or other disabled dependent, you can claim a credit for the cost of that care. You must be paying for the care in order to free you up to work **outside** the home, the person who receives the care must be somebody you legally claim on your taxes as a dependent and he or she must be "totally" disabled. Generally speaking, the IRS won't consider anybody "totally" disabled unless he or she could receive SSI or SSDI; however, there is no actual requirement that your dependent actually receive SSI or SSDI, and you could claim somebody with a temporary disability as a "totally" disabled dependent (such as child recovering from surgery). Be prepared to go to a lot more trouble documenting a "total" disability if your dependent does not receive SSI or SSDI.

How to Apply: File Form 2441 with your 1040 and Schedule A. You will need the instruction book for From 2441. Also, get IRS Publication 503, "Child and Dependent Care Expenses," for more information.

Records You Will Need to Keep: 1) The withholding records required of you as an employer (see above, "MEDICAL CARE DEDUCTIONS"); 2) verification of your dependent's disability; and 3) copies of your tax returns and all other correspondence with the IRS.

THE ADA TAX CREDIT

This is not a tax deduction directly available to you as a disabled jobseeker. Rather, it is a tax credit your employer can take to cover part of the costs of making his or her business accessible. It is available to businesses with gross receipts of less than $1 million in 1992, which also employ fewer than 30 full-time employees.

Although the ADA Tax Credit is not a Work Incentive for you in the same sense as IRWE or PASS, it may help you to understand the ADA Tax Credit if you apply for work at a small business. If your prospective employer expresses concern about the costs of accommodating you in his or her business, you need to be able to explain that the ADA Tax Credit will cover many of the costs. The ADA Tax Credit

was passed into law by Congress for the purpose of helping small businesses to make themselves accessible in cases where this might otherwise be an "undue burden" that would leave them exempt from the law.

The ADA Tax Credit differs from the tax deduction previously available to business owners who made their facilities accessible. When you take a tax deduction, you only get to write off a portion of the deduction on your taxes. When you take a tax credit, you can take the whole value of the credit off your taxes.

A qualified small business can take the credit for renovations, the cost of TDDs, the cost of adaptive devices and cost of removing transportation barriers. Any areas renovated must be brought up to the Uniform Federal Accessibility Standard (UFAS), which is similar to the basis for most state accessibility codes. The ADA Tax Credit will cover all costs between $250 and $10,250 per year. Half of all costs incurred (up to $30,000) can be taken in the Tax Credit, for a total of up to $15,000.

Sadly, many small-business owners who have heard of the ADA Tax Credit are convinced that it is too difficult to obtain because the IRS staff are not knowledgeable enough about it to process the claims correctly. Many times when small businesses filed for the old tax deduction, perfectly valid claims were rejected for just this reason. (Sound familiar?) The only solution to this problem, of course, is for those who are entitled to the ADA Tax Credit to claim it and insist that their claims be honored.

How to Apply: Your employer needs to apply. He or she can obtain more information about the ADA Tax Credit by contacting Mark Pitzer, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW, Washington DC 20224.

Records You Will Need to Keep: None. The recordkeeping responsibility belongs to your employer.

THE TARGETED JOBS TAX CREDIT (SECTION 51 OF THE INTERNAL REVENUE CODE)

Like the ADA Tax Credit, the Targeted Jobs Tax Credit is a "Work Incentive" for your employer. The TJTC program rewards businesses of any size that hire persons in nine "targeted" groups, including people with disabilities.

Like the ADA Tax Credit described above, the TJTC is a tax credit -- which means the full value of the TJTC may be taken off an employers taxes. All businesses are eligible for a TJTC. A business may hire as many people eligible for a TJTC as it can, and take a TJTC for each one. There is no limit to the total tax credit an employer may accumulate under the TJTC program.

For every disabled employee a business hires, it may take a TJTC for 40% of the disabled employees first-year wages, up to $6,000. The per-person limit on a TJTC is $2,440. The disabled worker may be full or part-time, but must either hold the job for 90 days or complete 120 hours of work. The employer must reduce his or her deduction for employee wages by the size of the TJTC claimed, which slightly reduces the value of the credit.

The procedure for claiming a TJTC is somewhat complex. First, you have to obtain a TJTC voucher from your local Vocational Rehabilitation or Job Training Partnership of America office. In some states, you must already be a VR or JTPA client to get the TJTC voucher, or else become one

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to get the TJTC voucher. Give this to your employer when you start work. Your employer must complete one of the sections on the voucher and them mail it to the nearest Employment Service office. The Employment Service will send your employer back a certificate which validates the TJTC. Your employer then submits the certificate to the IRS at tax time.

The TJTC offers large businesses a chance to recoup some of the costs of hiring a worker with a disability, and offers smaller businesses an additional incentive on top of their ADA Tax Credit.

How to Apply: Contact your local Vocational Rehabilitation or JTPA office.

Records You Will Need to Keep: A copy of the voucher form, after it has been filled out and signed by your employer.

THE AUTHOR'S FINAL NOTE: A FEW WORDS OF ENCOURAGEMENT

I have tried to give you a realistic picture of the obstacles you may encounter in planning and claiming Federal Work Incentives benefits, but I don't want to discourage you. The Work Incentives were created for *your* use, to help you get over financial and other barriers that may be keeping you out of the job market. Thousands of people with disabilities *have* used the Work Incentives successfully. With patience, persistence and assertiveness, you'll be one of the success stories, too.

I hope this has Guide has started you thinking about using the Federal Work Incentives to help you enter the job market. If you have questions or problems with the Social Security Administration that aren't covered in the ***Red Book***, and your local Social Security Office can't or won't help you, contact me weekdays between 2 PM and 5 PM (EST) at the Center for Independent Living of North Florida, Inc.

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I will be glad to help out as many people as I can, as long as I can fit it in with my regular duties. (I'd also love to hear your "success stories," too.)

Meanwhile, feel free to make as many copies of this Guide as you wish. (It's not copyrighted.) Spread it around! I have been working for over two years to create that "critical mass" I mentioned above, of educated consumers demanding their rights. If 100,000 consumers see this Guide, and just one in 10 shows up at an SSA Field Office demanding his or her rights, we'd create a "blip on the screen" that couldn't be ignored. Ten thousand new applicants would boost the SSA's Work Incentives recipients almost 25%, and that's just the beginning! Imagine what will happen when every school transition counselor, every vocational rehab counselor, every facility operator, every independent living advocate and every consumer advocacy group starts promoting the Work Incentives: we'll start a revolution!

What are we waiting for?

Income Log

Amount	Check #	Source	Date

Annual Totals:

Work Income: **Benefits:** **Other:**

Blind Work Expenses Log

Month: **Year:**

Amount	Check #	Expense	Date

Annual ExpensesTotal: **/12 =**

IRWE Expenses Log

Month: **Year:**

Amount	Check #	Expense	Date

Annual ExpensesTotal: **/12 =**

PASS Expenses Log

Amount	Check #	Expense	Date

Medical Expenses Log

Amount	Check #	Expense	Date